

[REDACTED]
SEP 16 1982
[REDACTED]

Employer Identification Number: [REDACTED]
Form Number: 1120
Tax Years: [REDACTED] forward

Dear Applicant:

This is a final adverse ruling as to your exempt status under section 501(c)(4) of the Internal Revenue Code.

Our adverse ruling was made for the following reason(s):

You are operated primarily for the benefit of your members, rather than exclusively for the promotion of social welfare, because you may provide exterior maintenance of private residences.

You are required to file federal income tax returns on the above form. Based on the financial information you furnished, it appears that returns should be filed for the years shown above. These returns should be filed with your key District Director for exempt organization matters within 30 days from the date of this letter unless a request for an extension of time is granted. Returns for subsequent tax years should be filed with the appropriate service center indicated in the instructions for those returns.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely yours,

(Signed) [REDACTED]

[REDACTED]
Chief, Exempt Organizations
Technical Branch

RECEIVED

Baltimore
EO Group

DEC 15 1982

District Director Of Internal Revenue
CHIEF, TECHNICAL STAFF
BALTIMORE

SEP 12 1989

CERTIFIED MAIL

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

The information disclosed that you were incorporated under the non-profit laws of the State of [REDACTED] or [REDACTED].

Your stated purpose in your Articles of Incorporation is to provide an entity to the members of the association and to provide for enforcement of the Revised and Restated Declaration of Covenants, Conditions and Restrictions of the Association which relate to real property situated in [REDACTED]. Your association is also organized "to provide for the maintenance of the common areas, maintain architectural control of the residence lots and common areas, fix, levy and enforce payment by lawful means all assessments and other charges; pay all expenses related to the conduct of the association and govern the association.

Every owner of a lot which is subject to the assessment is a member of the association. Membership is appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

As stated in your Declaration of Covenants, Conditions and Restrictions, your association provides periodic exterior maintenance upon either lots, or dwellings subject to annual assessment as follows: periodic painting of exterior building surfaces and trim, repair and maintenance of gutters, downspouts, roofs, shrubs, lawns, walks, and other exterior improvements.

In the event an owner of any lot fails to maintain the exterior premises and improvements situated thereon, or visible from without in a manner satisfactory to the Board of Directors, the association, after approval by two-thirds of the vote of the Directors has the right, through its agents and employees, to enter upon said parcel and repair, maintain, and restore the lot and the exterior of the building and any other improvements erected thereon. The cost of such maintenance is added to and becomes part of the assessments to which such lot is subject.

[REDACTED]

Your income is from member assessments, interest and late charges. Expenditures are for maintenance of the common area, snow removal, management fee, utilities, insurance, professional fees, repairs, office supplies, income tax and capital replacements.

Section 501(c)(4) of the Code provides for the recognition of exemption of civic leagues or organizations not organized for profit, but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the income tax regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and the general welfare of the people of the community. An organization embraced within this section is one which is operated for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 69-280, published in Internal Revenue Cumulative Bulletin 1969-1, page 152 holds that a non-profit corporation formed for the purpose of providing specified services for the homeowners in a housing development is not exempt as a 501(c)(4) social welfare organization. A purchaser of a unit in the housing development was required to become a member. The organization was supported entirely by annual dues charged members. It was determined that the organization was performing services that its members would otherwise have to provide for themselves and that the organization was operated primarily for the private benefit of members.

Revenue Ruling 72-102, 1972-1 C.B., page 149, states that a non-profit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks, and common areas for use of the residents is exempt under section 501(c)(4) of the Code. Membership is required of all owners of real property in the development, and assessments are levied to support the organization's activities. It was held that by maintaining the property normally maintained by a municipal government, the organization served the common good and general welfare of the people of the community.

Revenue Ruling 74-99, 1974-1 C.B., page 131, modified Revenue Ruling 72-102 by stating guidelines under which a homeowner's association could qualify for exemption under section 501(c)(4) of the Code. These guidelines are:

1. The organization must service a "community" which bears a reasonable, recognizable relationship to an area ordinarily identified as a governmental unit.
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. The common areas or facilities must be for the use and enjoyment of the general public.

This ruling states that a community, within the meaning of section 501(c)(4) of the Code and the regulations, "... is not simply an aggregation of homeowners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes therein."

Your association conducts activities directed to the exterior maintenance of private residences. You are operating for the private benefit of members, i.e. lot owners, and not for the benefit of the general welfare of the people of the community.

Therefore, you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(4) of the Code.

Until you have established an exempt status, you are not relieved of the requirement for filing Federal income tax returns.

Your attention is called to section 528 of the Internal Revenue Code which was added by the Tax Reform Act of 1976. This section provides that, in certain circumstances, a non-exempt homeowners association may elect not to be taxed on its "exempt function income" which includes membership dues, fees or assessments from owners of real property. The election is made by filing Form 1120H. If you determine that your organization qualifies under section 528, you may find it beneficial to make this election.

[REDACTED]

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District Office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]

[REDACTED]

District Director

Enclosure: Publication 892